

**KENTUCKY PERSONNEL BOARD  
MINUTES OF SEPTEMBER 12, 2014**

1. The regular monthly meeting of the Kentucky Personnel Board was called to order by Chairman Doug Sapp on September 12, 2014, at approximately 9:30 a.m., 28 Fountain Place, Frankfort, Kentucky.

Board Personnel Present:

Wayne "Doug" Sapp, Chairman  
Larry B. Gillis, Vice Chairman  
David B. Stevens, Member  
David F. Hutcheson, Jr., Member  
Tommy W. Chandler, Member  
Donald W. "Don" Blevins, Member  
Amanda Cloyd, Member  
Mark A. Sipek, Executive Director and Secretary  
Boyce A. Crocker, General Counsel  
Linda R. Morris, Administrative Section Supervisor  
Cynthia Perkins, Administrative Specialist

2. **READING OF THE MINUTES OF REGULAR MEETING HELD AUGUST 8, 2014**

The minutes of the last Board meeting had been previously circulated among the members. Chairman Sapp asked for additions or corrections. Mr. Blevins moved to approve the minutes, as submitted. Dr. Stevens seconded and the motion carried 7-0. The Board members signed the minutes.

3. **EXECUTIVE DIRECTOR'S REPORT**

Annual Report, Fiscal Year 2014

Mr. Sipek reviewed the Board's Annual Report, of which the members were provided a copy. Two hundred and seventy-nine (279) appeals were filed with the Board during the 2014 Fiscal Year. There were a total of 207 active pending appeals at the end of the fiscal year. Mr. Sipek stated that the average length of time from when an appeal is filed with the Board until final adjudication by the Board is approximately thirteen months. There were 272 Final Orders as follows: 120 agency actions upheld (appeals dismissed); 7 appeals sustained to the extent (agency penalty lessened); 1 appeal sustained (agency action reversed); 3 reinstatements (employees returned to work after termination); 67 settlements and 117 withdrawals.

Mr. Blevins asked what does the lack of funds do to the Board's operation. Mr. Sipek stated that scheduling of evidentiary hearings is slowed down, except for dismissals.

Chairman Sapp stated that he reviews the Board's monthly status reports and if he has any questions he will contact staff. He noted that both parties can delay proceedings, specifically through requests for continuation of hearings.

At the conclusion of Mr. Sipek's report, Chairman Sapp called for the Personnel Cabinet's report.

#### **4. PERSONNEL CABINET'S REPORT**

Ms. Dinah Bevington, Executive Director, came forward to present the Personnel Cabinet's report.

Ms. Bevington advised that Commissioner Joe Cowles was unable to attend the Board meeting today, but will provide details of the Kentucky Employee Health Plans next month. Open enrollment will begin in October 2014. Benefit fairs will be held throughout the state beginning October 1, 2014. Mandatory open enrollment starts October 13 and continues through October 30, 2014.

Ms. Bevington stated that Governor Beshear signed an Executive Order on September 4, 2014, to provide a tobacco-free environment on all state grounds, buildings and fleet cars, effective November 20, 2014. The ban includes the use of smokeless tobacco products such as dip, snuff, and chew as well as electronic cigarettes. Website FAQs are available at [tobacco-free.ky.gov](http://tobacco-free.ky.gov).

Following the Personnel Cabinet's report, Chairman Sapp then called the parties forward for the first oral argument.

#### **5. ORAL ARGUMENTS**

##### **A. Tracy Carroll v. Education and Workforce Development Cabinet**

Present for oral arguments were counsel for Appellant, the Hon. Charles Jones, and counsel for Appellee, the Hon. Lisa Lang. After presenting oral arguments, the parties answered questions from the Board.

##### **B. Otis Mills v. Justice and Public Safety Cabinet (Juvenile Justice)**

Present for oral arguments were counsel for Appellant, the Hon. Paul Fauri, and counsel for Appellee, the Hon. Adam Adkins. After presenting oral arguments, the parties answered questions from the Board.

## 6. INVESTIGATIONS

Anonymous complaint against the Dept. of Agriculture

Mr. Sipek stated that he and Mr. Gillis received the anonymous complaint by e-mail. Mr. Sipek determined that there were no KRS Chapter 18A violations alleged in the complaint.

Mr. Blevins moved to deny the anonymous request for investigation. Mr. Hutcheson seconded and the motion carried 7-0.

## 7. CLOSED SESSION

Mr. Hutcheson moved that the Board go into Executive Session for the purposes of discussing complaints, proposed or pending litigation, and deliberations regarding individual adjudications. Dr. Stevens seconded. Chairman Sapp stated that the motion had been made and seconded for the Personnel Board to retire into closed Executive Session, passed by a majority vote of the members present, with enough members present to form a quorum. Pursuant to KRS 61.810(1) (c), (f), and (j), the Kentucky Open Meetings Act, the Board will now retire into closed Executive Session. Specific justification under the Kentucky Open Meetings Act for this action are as follows, because there will be discussion of proposed or pending litigation against or on behalf of the Board; and deliberations regarding individual adjudication. The motion carried 7-0. (11:00 a.m.)

Dr. Stevens moved to return to open session. Mr. Gillis seconded and the motion carried 7-0. (12:00 p.m.)

## 8. CASES TO BE DECIDED

**The Board reviewed the following cases. At that time, the Board considered the record including the Hearing Officers' findings of fact, conclusions of law and recommendations, any exceptions and responses which had been filed, and oral arguments where applicable.**

### A. **Tracy Carroll v. Education and Workforce Development Cabinet (2012-029)**

Mr. Blevins moved to note Appellee's exceptions, Appellant's exceptions and oral arguments and to accept the recommended order sustaining the appeal to the extent ordering Appellee and the Personnel Cabinet to review the position again. Dr. Stevens seconded and the motion carried 7-0.

**B. Otis Mills v. Justice and Public Safety Cabinet (Juvenile Justice) (2013-267)**

Mr. Hutcheson moved to note Appellee's exceptions, Appellant's exceptions, Appellant's response to exceptions and oral arguments and to accept the recommended order sustaining the appeal to the extent the dismissal be rescinded and modified to a thirty (30) day suspension. Mr. Blevins seconded and the motion carried 7-0.

**C. Liberty Campbell v. Justice and Public Safety Cabinet (Corrections) (2013-226)**

Mr. Gillis moved to note Appellee's exceptions, Appellant's response and oral arguments and to accept the Final Order, as attached to the minutes, dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

**D. Kimberly Rulo v. Personnel Cabinet (2013-285)  
(Deferred from August)**

Judge Chandler moved to note Appellant's Exceptions, Appellee's exceptions, Appellant's response to Appellee's exceptions, Appellee's response to Appellant's exceptions and oral arguments and to defer this matter to the next Board meeting. Dr. Stevens seconded and the motion carried 6-0, with Mr. Gillis recusing.

**E. ~~Kimstane Johnson v. Justice and Public Safety Cabinet (Corrections)~~  
Moved to October Meeting**

**F. Sharon Carter v. Cabinet for Health and Family Services (2014-072)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

**G. Lorena Fyffe v. Justice and Public Safety Cabinet (2014-067)**

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 7-0.

**H. Kristen Hoehner v. Cabinet for Health and Family Services  
(2014-006 and 2014-034)**

Mr. Hutcheson moved to accept the recommended order dismissing the appeals. Judge Chandler seconded and the motion carried 7-0.

**I. James Kinnaird v. Finance and Administration Cabinet (2014-042)**

Mr. Blevins moved to accept the recommended order dismissing the appeal. Mr. Hutcheson seconded and the motion carried 7-0.

- J. **Jennifer Lynch v. Justice and Public Safety Cabinet (Corrections)** (2013-292 and 2014-021)

Mr. Gillis moved to accept the recommended order dismissing the appeals. Dr. Stevens seconded and the motion carried 7-0.

- K. **Melissa Perkinson v. Justice and Public Safety Cabinet (Corrections)** (2014-036)

Mr. Hutcheson moved to accept the recommended order dismissing the appeal. Dr. Stevens seconded and the motion carried 7-0.

- L. **Rosa Stephens v. Cabinet for Health and Family Services, Gastineau and Jeffries** (2013-295)

Mr. Gillis moved to accept the recommended order dismissing the appeal. Ms. Cloyd seconded and the motion carried 7-0.

- M. **Jacki Wilson v. Cabinet for Health and Family Services and Beth Wilson** (2013-279)

Mr. Blevins moved to accept the recommended order dismissing the appeal. Mr. Gillis seconded and the motion carried 7-0.

## 9. **WITHDRAWALS**

Dr. Stevens moved to accept the following withdrawals of appeals *en bloc* and dismiss the appeals. Mr. Gillis seconded and the motion carried 7-0.

- A. Timothy Jeffries v. Dept. of Agriculture
- B. William Kidd, Jr. v. Justice and Public Safety Cabinet (Juvenile Justice)
- C. Debbie Landrum v. Education and Workforce Development Cabinet
- D. Angela Lane v. Cabinet for Health and Family Services
- E. Beth Munger v. Department of Veterans' Affairs
- F. Paul Petrey v. Kentucky Educational Television
- G. Chris Schlosser v. Cabinet for Health and Family Services
- H. Justine Smith v. Cabinet for Health and Family Services
- I. J. Patrick Stipes v. Tourism, Arts and Heritage Cabinet (2014-135)
- J. Rashad Thompson-Rowe v. Cabinet for Health and Family Services and Personnel Cabinet
- K. Malessa Wallace v. Personnel Cabinet and Justice and Public Safety Cabinet (Corrections)
- L. Louis Caufield v. Justice and Public Safety Cabinet (Corrections)
- M. Leigh Sullivan v. Cabinet for Health and Family Services

10. **SETTLEMENTS**

Mr. Hutcheson moved to accept the following settlements *en bloc* as submitted by the parties, and to sustain the appeals to the extent set forth in the settlements. Mr. Gillis seconded and the motion carried 7-0.

- A. Danielle Boone v. Department of Veterans' Affairs
- B. Thomas Jones v. Cabinet for Health and Family Services
- C. Kela Fuqua v. Cabinet for Health and Family Services
- D. Deborah Gonzalez v. Justice and Public Safety Cabinet (Juvenile Justice)

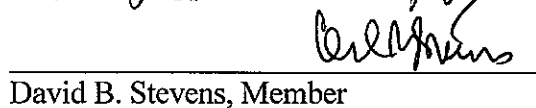
11. **OTHER**

Proposed Settlement Agreement Guidelines

Mr. Sipek advised that the Personnel Cabinet has asked to the Board to defer this matter to the October 2014 meeting.

There being no further business, Dr. Stevens moved to adjourn. Mr. Hutcheson seconded and the motion carried 6-0. (12:05 p.m.)

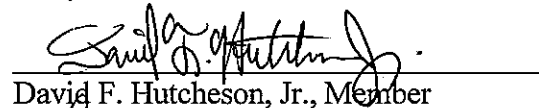
  
Wayne D. Sapp, Chairman

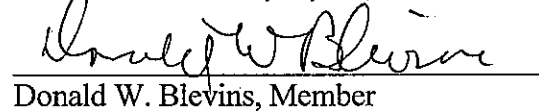
  
David B. Stevens, Member

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Tommy W. Chandler, Member

  
Amanda Cloyd, Member

  
Larry Gillis, Vice Chairman

  
David F. Hutcheson, Jr., Member

  
Donald W. Blevins, Member

2. The Board rejects the Hearing Officer's conclusion that the dismissal was not taken for good cause. The Board concludes that the Appellant, as a Probation and Parole Officer, holds a special position of trust relative to offenders and the court system. Appellant's conduct as found herein was a violation of that trust and, as such, the punishment of dismissal was in no way excessive and erroneous and was taken with good cause.

3. The Board further concludes that the Appellee has the right to punish the Appellant's egregious misconduct independent of the opinions of the Circuit Judge and Commonwealth Attorney that they could still work with her.

B. Delete the Recommended Order, and substitute the following:

**IT IS HEREBY ORDERED** that the appeal of **LIBERTY CAMPBELL VS. JUSTICE AND PUBLIC SAFETY CABINET, DEPARTMENT OF CORRECTIONS (APPEAL NO. 2013-226)** be **DISMISSED**.

**IT IS FURTHER ORDERED** that the Findings of Fact, Conclusions of Law and Recommended Order of the Hearing Officer as Altered be, and they hereby are, approved, adopted and incorporated herein by reference as a part of this Order and the Appellant's appeal is **DISMISSED**.

The parties shall take notice that this Order may be appealed to the Franklin Circuit Court in accordance with KRS 13B.140 and KRS 18A.100.

**SO ORDERED** this 17<sup>th</sup> day of September, 2014.

**KENTUCKY PERSONNEL BOARD**

  
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**MARK A. SIPEK, SECRETARY**

A copy hereof this day mailed to:

Hon. Amber Arnett  
Hon. Charles K. Kilgore  
Bobbie Underwood